

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Dominic Ali, *

Plaintiff *

v. *

12-cv-00364-SM

Warden Edward Reilly, Chaplain Dana Hoyt, *

Scott Watson, John Masse, Shanon Berwick *

Defendants *

AFFIDAVIT OF WILLIAM MCGONAGLE

I, William McGonagle, declare and affirm as follows:

1. I am currently employed by the New Hampshire Department of Corrections (“NHDOC”). I have been employed by the NHDOC for a total of twenty-nine years over the entirety of my career. I have held my current position, Assistant Commissioner, for five years since February 8, 2008. Over my career I have served as a Correctional Counselor/Case Manager at two departmental halfway houses (Shea Farm and Calumet Center), as a Correctional Counselor/Case Manager assigned to the Mental Health Unit, NH State Prison for Men, as a Corrections Unit Manager of a medium security housing unit at NH State Prison for Men, as the Education Director for the Department Of Corrections and most recently as Assistant Commissioner. I have also served as the Manager for Quality Improvement & Training for the Department of Health & Human Services, Division of Juvenile Justice Services and as Program Director of a day high school for emotionally disturbed teenagers for the Southeast Regional Educational Services Center (SERESC).

2. As Assistant Commissioner, per RSA 21-H:8, II (d), I am involved in all aspects of operations of the NHDOC including preparing the biennial budget required by RSA 12-H:8, II (a), as well as general supervisory authority over all employees of the NHDOC under RSA 21-H:8, II (c). I have direct oversight and authority over the NHDOC Division of Medical & Forensic Services, the Division of Community Corrections (including institutional programs, services and case management), the Bureau of Quality Improvement & Research, the Bureau of Victim Services, the Bureau of Business Information, and Correctional Industries.

3. The NHDOC is not permitted to hire someone for a position that it has not received funding to support. The NHDOC was provided funding for only two chaplain positions in the last biennial budget. Attached as Ex. B-1. Furthermore, the NHDOC is limited by the State's personnel system. Most state employees are classified. Each classified position must be authorized. The addition of any staff position in any government agency requires the approval of the Governor and the Executive Council. At present only two chaplain positions exists and are funded and only two chaplain positions have been approved by the Governor and Executive Council. *See* RSA 9:8-a, RSA 9:17-a, RSA 21-I:49, RSA 21-I:54, and RSA 99:4

4. In April 2013 there were approximately 2,760 inmates in the current population of the NHDOC. Inmates are asked their religious preference on intake and the information is recorded in the inmate offender information management system, CORIS. Any change of preference is also recorded. Of the 65% of inmates that stated a preferred religion, approximately 78% stated "Christian/Protestant" or "Catholic" as their preferred religion. *See* Ex. B-2. Of the 65% of inmates that stated a preferred religion, only 5% identified Muslim or Islam as their preferred religion. *Id.* NHDOC has only two approved chaplain positions and must utilize those positions to provide the most benefit possible to the inmates. While the

NHDOC has no prohibition or quota regarding the type of individuals that may be hired for vacant chaplain positions, the current composition of the clergy allows the NHDOC to provide programming to a substantial portion of the inmate population. Moreover, the current composition allows the NHDOC to provide programming to a substantial portion of the inmate population while operating on budget as required by RSA 9:19.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 8/15/2013

s/William McGonagle
William McGonagle
Assistant Commissioner
New Hampshire Department of Corrections